

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF CALIFORNIA
3

4 DAKAVIA MANAGEMENT CORP., et
5 al.

6 Plaintiffs,

7 v.

8 BRANDON BIGELOW, et al.

9 Defendant.
10

No. 1:20-cv-00448-JLT-SKO

**ORDER DIRECTING THE CLERK OF
COURT TO TERMINATE CERTAIN
DEFENDANTS**

(Doc. 161)

11 On November 14, 2025, Plaintiffs Dakavia Management Corp., Monte Vista Estates, LLC,
12 and Lamar Estates, LLC filed a “Notice for Voluntary Dismissal Without Prejudice of Claims
13 Against Defendants Invigorate Healthcare, Inc., Invigorate Healthcare, LLC, Invigorate Healthcare
14 Management, LLC, Monte Vista Care Holdings, LLC, Lamar Holdings, LLC, and Rodney
15 Zwahlen,” notifying the Court that these Defendants are voluntarily dismissed without prejudice.
16 (Doc. 161.)

17 Plaintiffs filed this notice before any of the named opposing parties served either an answer
18 or a motion for summary judgment. As such, Plaintiffs have voluntarily dismissed their claims as
19 to named non-appearing Defendants Invigorate Healthcare, Inc.; Invigorate Healthcare, LLC;
20 Invigorate Healthcare Management, LLC; Monte Vista Care Holdings, LLC; Lamar Holdings,
21 LLC; and Rodney Zwahlen *only* without prejudice pursuant to Rule 41(a)(1)(A)(i) of the Federal
22 Rules of Civil Procedure. *See Constantinides v. Los Angeles Cnty. Sheriff*, 955 F.2d 47 (9th Cir.
23 1992) (“Although Roxanna had filed an answer before Constantinides’s request for dismissal
24 without prejudice, Constantinides could still dismiss without prejudice the County defendants, who
25 had neither answered nor moved for summary judgment.”); *Maxx Grp., LLC v. Uriah Prods., LLC*,
26 No. 8:24-CV-01651-FWS-MAA, 2024 WL 5694630, at *1 (C.D. Cal. Dec. 2, 2024); *City of San*
27 *Jose v. San Jose Police Officers’ Ass’n*, No. 5:12-CV-02904-LHK, 2013 WL 4806453, at *2 (N.D.
28 Cal. Sept. 9, 2013); 2 FEDERAL RULES OF CIVIL PROCEDURE, RULES AND COMMENTARY § 41:10

1 (observing that the “prevailing answer” to the question “[i]f one defendant has answered or moved
2 for summary judgment but another defendant has not, can the plaintiff still dismiss by notice with
3 respect to the defendant that has not answered or moved for summary judgment” is “yes”).

4 The Court therefore DIRECTS the Clerk of Court to terminate Defendants Invigorate
5 Healthcare, Inc.; Invigorate Healthcare, LLC; Invigorate Healthcare Management, LLC; Monte
6 Vista Care Holdings, LLC; Lamar Holdings, LLC; and Rodney Zwahlen. *See Concha v. London*,
7 62 F.3d 1493, 1506 (9th Cir. 1995) (The notice of voluntary dismissal “automatically terminates
8 the action as to the defendants who are the subjects of the notice.”).

9 This case shall remain OPEN pending resolution of Plaintiff’s case against all of the
10 remaining Defendants Curtis Bigelow, Richard A. Green, Razmik Zakarian, and James Christian
11 Hansen.

12
13 IT IS SO ORDERED.

14 Dated: November 18, 2025

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE